

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HAROLD DARDEN : CIVIL ACTION  
:   
v. :   
:   
RAYMOND J. SOBINA, *et al.*, : NO. 09-CV-3235  
:

**ORDER**

AND NOW, this ~~24<sup>th</sup>~~ day of *JUNE*, 2010, upon consideration of the Petition for Writ of Habeas Corpus, Petitioner's Memorandum of Law, Petitioner's Reply to the Commonwealth's Response, the Commonwealth's Response, inclusive of all exhibits thereto, and the Commonwealth's Response to Petitioner's Reply; and after review of the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells, to which no objections were filed, it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED<sup>1</sup>;
2. The Petition for Writ of Habeas Corpus is DISMISSED without an evidentiary hearing; and
3. Petitioner has not met statutory requirements to have his case heard and no reasonable jurist could find this procedural ruling debatable; thus, a certificate of appealability is DENIED.

IT IS SO ORDERED.

BY THE COURT:

  
JOEL H. SLOMSKY, J.

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<sup>1</sup> The Court notes that since the date of Magistrate Judge Wells' Report and Recommendation, the United States Supreme Court, in Holland v. Florida, No. 09-5327, 78 U.S.L.W. 4555 (U.S. June 14, 2010), held that the Antiterrorism and Effective Death Penalty Act's limitations period, 28 U.S.C. § 2244(d), is subject to equitable tolling in appropriate cases, thereby affirming the Third Circuit's holding in Miller v. New Jersey Dep't of Corrections, 145 F.3d 616, 617 (3d Cir. 1998). The decision in Holland v. Florida does not change the conclusions reached by Magistrate Judge Wells in the equitable tolling portion of the Report and Recommendation.